

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

HELENA DIVISION

ELDON HUFFINE,)	Cause No. CV 06-54-H-DWM-RKS
)	
Plaintiff,)	
)	
vs.)	FINDINGS AND RECOMMENDATION
)	OF U.S. MAGISTRATE JUDGE
RICK SEIDLITZ; MEAGHER COUNTY;)	
KIRK BARFUSS; STATE OF)	
MONTANA,)	
)	
Defendants.)	
_____)	

On October 31, 2006, Plaintiff Eldon Huffine moved to proceed in forma pauperis with this action under 42 U.S.C. § 1983. Huffine is proceeding pro se.

In his affidavit, Huffine lists no monthly rental or house payment, yet he also says that he does not own a home. He discloses no significant assets. *See* Mot. (doc. 2) at 2-3. Huffine is not telling the whole story. A Presentence Report prepared in the case of *United States v. Huffine*, No. CR 05-19-BU-DWM (D. Mont. filed Aug. 19, 2005), indicates that, during a home visit, he was found to have several firearms and various vehicles and that he receives rental income of \$2,000.00 per year from a home that he rents to a friend. While he claims to have debts of up to \$290,000.00, including \$40,000.00 in credit card debt, *see* Mot. at 4, no outstanding credit card debt at all appears on his credit record. The public records portion of his credit report shows debts totaling less than

\$16,000.00. See Presentence Report ¶¶ 48, 55-56.

The Court concludes that Huffine is not a trustworthy affiant. He should not be permitted to proceed in forma pauperis.

Pursuant to *Minetti v. Port of Seattle*, 152 F.3d 1113, 1114 (9th Cir. 1998) (per curiam), Huffine is not entitled to a ten-day period to object to the Findings and Recommendation.

Based on the foregoing, the Court enters the following:

RECOMMENDATION

Huffine's Motion to Proceed In Forma Pauperis should be DENIED and Huffine should be given ten (10) working days from the date of the Order denying his motion to pay the full filing fee of \$350.00. If he fails to pay the full filing fee within that time, the action should be dismissed and the Clerk of Court should close the case.

The Clerk of Court shall immediately forward a copy of the Findings and Recommendation to Huffine and to Chief United States District Judge Donald W. Molloy for his immediate review.

DATED this 23rd day of February, 2007.

/s/ Keith Strong _____
Keith Strong
United States Magistrate Judge